PAPER NO. 2

U.S. DEPARTMENT OF COMMERCE
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[NRizzo Art Unit 122
6/7/78 913,500
Masaru Iwanami et al]

MAILED:

MAILED

JAN 31 1979

GROUP 120

Burgess, Ryan & Wayne
370 Lexington Ave.
New York, N.Y. 10017

THIS IS A COMMUNICATION FROM THE EXAMINER IN CHARGE OF YOUR APPLICATION.

COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined.

☐ Responsive to communication filed on _____.

☐ This action is **made final.**

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE 3 MONTH(S) _____ DAYS FROM THE DATE OF THIS LETTER.

FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED. 35 U.S.C. 133

PART I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited, Form PTO-892.
2. ☐ Notice of Informal Patent Drawing, PTO-948.
3. ☐ Notice of Informal Patent Application, Form PTO-152
4. ☐

PART II SUMMARY OF ACTION

1. ☒ Claims 1-12 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-12 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ The formal drawings filed on _____ are acceptable.
8. ☐ The drawing correction request filed on _____ has been ☐ approved. ☐ disapproved.
9. ☒ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has
   ☒ been received.
   ☐ not been received.
   ☐ been filed in parent application; serial no. _____ filed on _____.
10. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 OG. 213.
11. ☐ Other

Form PTO 46-94 (rev. 5/77)

FORM PTO 46-59
(5-77) Formerly PTO-1142

U. S. DEPARTMENT OF COMMERCE
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PART III

SERIAL NUMBER 913,500

GROUP ART UNIT 122

NOTIFICATION OF REJECTION(S) AND/OR OBJECTION(S) (35 USC 132)

	CLAIMS (1)	REASONS FOR REJECTION (2)	REFERENCES * (3)	INFORMATION IDENTIFICATION AND COMMENTS (4)
1	1-12	35 USC 103	A∼B+C	COMBINATION OF THE REFERENCES RENDERS THE CLAIMS OBVIOUS WITHIN THE TERMS OF 35 USC 103. NOTE THE VERY LARGE DISCLOSURE IN THE HIRAOKA ET AL PATENT. BERGER ET AL TEACHES THE "DITHIOLAN" TYPE OF COMPOUNDS.
2	1-12	35 USC 112 1st + 2nd par	—	THE CLAIMED SUBJECT MATTER IS IN A "HEAVILY CROWDED" ART. ALL OF THE COMPOUNDS POSSESS THE SAME UTILITY. IN REWOLDS 1990 USPQ 317 "FUNCTIONAL DERIVATIVE RECITE" TERMS SUCH AS "GENERAL FORMULA"
3				"AN ARYL GROUP" "AN AROYL GROUP" "A CARBOXYL GROUP OR THE FUNCTIONAL DERIVATIVE THEREOF" "A HETEROCYCLIC RESIDUE" "COMPRISES REACTING" "COMPRISES TREATING" ARE ALL TOO BROAD & INDEFINITE. CLAIMS MUST NOT BE INDEFINITE NOR REPRESENT AN INVITATION TO EXPERIMENT
4	8-10	35 USC 103	A/B/C	UNITED CARBON ET AL ∼ BINNEY ET AL 55 USPQ 380. PROCESS CLAIMS ARE CONVENTIONAL IN THIS ART. IN REALBERTSON ET AL 141 USPQ 730
5				REFERENCE "D" CITED TO SHOW STATE OF ART ONLY AND IS NOT BELIEVED TO BE APPLICABLE AGAINST THE CLAIMS

* Capital letters representing references are identified on accompanying Form PTO 46-42. (Formerly PTO-892)
The symbol "v" between letters represents - in view of -.
The symbol "+" or "&" between letters represents - and -.
A slash "/" between letters represents the alternative - or -.

NOTE: Sections 100, 101, 102, 103, and 112 of the Patent Statute (Title 35 of the United States Code) are reproduced on the back of this sheet.

EXAMINER

TEL. NO. (703) -557

NICHOLAS G. RIZZO
EXAMINER
GROUP ART UNIT 122

— —

35 U.S.C. 100. Definitions. When used in this title unless the context otherwise indicates —

(a) The term "invention" means invention or discovery.

(b) The term "process" means process, art or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material.

(c) The terms "United States" and "this country" mean the United States of America, its territories and possessions.

(d) The word "patentee" includes not only the patentee to whom the patent was issued but also the successors in title to the patentee.

35 U.S.C. 101. Inventions patentable. Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

35 U.S.C. 102. Conditions for patentability; novelty and loss of right to patent. A person shall be entitled to a patent unless —

(a) the invention was known or used by others in this country, or patented or described in a printed publication is this or a foreign country, before the invention thereof by the applicant for patent, or

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or

(c) he has abandoned the invention, or

(d) the invention was first patented or caused to be patented by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application filed more than twelve months before the filing of the application in the United States, or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or

(f) he did not himself invent the subject matter sought to be patented, or

(g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

35 U.S.C. 103. Conditions for patentability; non-obvious subject matter. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

35 U.S.C. 112. Specification. The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. A claim may be written in independent or dependent form, and if in dependent form, it shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim.

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.